

## REMARKS/ARGUMENTS

In the Final Official Action, claims 1-11 and 13-34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over SARFATI (U.S. Patent No. 6,970,960 B1) in view of LILLEVOLD (U.S. Patent No. 6,230,284 B1). The Advisory Action maintained the rejection.

Upon entry of the present amendment, each of independent claims 1, 16, 22-23, and 27-34 have been amended. Claim 12 was previously cancelled. Thus, claims 1-11 and 13-34 are currently pending for reconsideration by the Examiner.

In the Final Official Action, claims 1-11 and 13-34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over SARFATI in view of LILLEVOLD. With regard to each of the independent claims 1, 16, 22-23, and 27-34, the Final Official Action asserts that SARFATI discloses most of the features recited therein, primarily citing SARFATI's Figures 13A-13B (together with the corresponding description); column 2, lines 32-52; and column 5, lines 30-67. (See Final Official Action, pages 2-3.)

However, the Final Official Action acknowledges that SARFATI fails to disclose a second program selector operable to select, as a program to be executed, a program that is of the same type as the currently executed program, in the case where abnormal termination of the currently executed program is detected by the program monitor (apparently referring to the text of independent claim 1 as an exemplary claim that is considered to be representative of all of the independent claims). (See Final Official Action, page 3.) Nevertheless, the Final Official Action asserts that LILLEVOLD discloses these features, citing LILLEVOLD's column 4, lines 60-67, and column 2, lines 30-40, and concludes that independent claims 1, 16, 22-23, and 27-34 were obvious. (See Final Official Action, page 4.)

Applicants respectfully traverse the rejection of claims 1-11 and 13-34 under 35 U.S.C. § 103(a) as being unpatentable over SARFATI in view of LILLEVOLD. Applicants respectfully submit that the specific combination of features recited in each of the independent claims would not have been obvious to one of ordinary skill in the art at the time of the invention, in view of SARFATI and LILLEVOLD.

More specifically with regard to independent claim 1, Applicants submit that neither SARFATI, nor LILLEVOLD, nor the combination thereof, disclose or render obvious at least the provision of independent claim 1 that explicitly recites: *a second program selector operable to select, as a program to be executed, a program that is of the same type as the currently executed program, in the case where abnormal termination of the currently executed program is detected by said program monitor* (emphasis added).

As discussed above, the Final Official Action acknowledges that SARFATI fails to disclose a second program selector operable to select, as a program to be executed, a program that is of the same type as the currently executed program, in the case where abnormal termination of the currently executed program is detected by the program monitor. (See Final Official Action, page 3.)

In order to remedy this deficiency of SARFATI, the Final Official Action asserts that LILLEVOLD discloses these features, citing LILLEVOLD's column 4, lines 60-67, and column 2, lines 30-40. (See Final Official Action, page 4.) However, a close inspection of the cited sections of LILLEVOLD, particularly when read in their proper context of the overall disclosure of LILLEVOLD, reveals that LILLEVOLD does not disclose the selection and execution of a second program that is of the same type as the currently executed program, to be executed where the abnormal termination of the currently executed program is detected. In distinct contrast,

LILLEVOLD discloses that the corrective action taken by LILLEVOLD is to have the computer revise, fix, or patch the *existing* crashed program, but not to select and execute an entirely different program that is of the same type as the currently executed program, as recited in independent claim 1.

More specifically, LILLEVOLD's column 4, lines 57-61, states: "In some embodiments, the microprocessor 80 executes the application program; detects the occurrence of an error in the execution program; and after detection of the error, automatically initiates corrective action to revise the application program" (emphasis added).

Additionally, the Examiner's attention is particularly drawn to LILLEVOLD's column 2, lines 17-34, that states:

When the crash occurs, in some embodiments, the crash handler program 16 causes the computer 10 to automatically initiate corrective action to revise the program 14.

In this context, the term "corrective action" may include any action the computer undertakes to revise, fix or "patch" the program 14 so that the error does not reoccur. For example, the computer 10 may automatically contact another computer 12 (a server computer coupled to the Internet, for example) and transmit information (described below) about the crash to the computer 12. Based on this information, the computer 12 may identify the error(s) that caused the crash and use this identification to search its file directory for revision program code 11 that, once installed on the computer 10, prevents reoccurrence of the crash.

If the revision program code 11 exists, the computer 10 may download a copy of the code 11 from the computer 12 and install the revision program code 11. (emphasis added)

As shown above, LILLEVOLD does not disclose the selection and execution of another program, of the same type as a currently executed program, when the currently executed program experiences an abnormal termination. Instead, LILLEVOLD teaches that when a crash of an application program 14 occurs, that a computer 10 undertakes corrective action to revise, fix, or patch the application program 13. Thus, LILLEVOLD's corrective action involves transmitting information about the crash to another computer 12, identifying the error that caused the crash,

and then downloading revision program code 11 to computer 10 to revise the existing application program 14 to prevent reoccurrence of the crash.

Accordingly, LILLEVOLD teaches the use of corrective action to revise or repair the original failed application program, but does not teach the provision of a second program of the same type as the first failed application program to be executed in place of the first application program. In other words, LILLEVOLD discloses an entirely different form of corrective action than that explicitly recited in independent claim 1.

It is noted that in the Advisory Action, mailed June 28, 2011, the Examiner again cites LILLEVOLD's column 4, lines 60-67, and asserts that LILLEVOLD discloses corrective action during a program error involving utilizing a revision application program, which the Examiner asserts, is essentially a copy of the affected program.

In view of this latest assertion, Applicants again reviewed the cited section of LILLEVOLD. This review indicates that the Examiner appears to have intended to cite LILLEVOLD's column 4, lines 57-63 (instead of lines 60-67). This section states:

In some embodiments, the microprocessor 80 executes the application program; detects the occurrence of an error in the execution program; and after detection of the error, automatically initiates corrective action to revise the application program. In other embodiments, the computer system may include multiple processors, and some of these microprocessors might perform the above-stated functions. (emphasis added)

Applicants respectfully submit that this cited section describes that the distinctly different type of corrective action that is taken by LILLEVOLD, as compared to the action recited in Applicants' independent claims. The above-cited section states that LILLEVOLD's corrective action is to **revise** the application program. Thus, a program that experiences multiple sequential errors, would continue to be revised, as necessary. Revising the existing program that developed the error, and then re-executing the program that experienced the error in a repetitive manner as

necessary, is distinctly different from Applicants' stopping the execution of the original first program that developed the error, subsequently executing an entirely different second program of a same type as the original first program, and then preventing the further execution of the original first program that developed the error.

The Examiner's attention is drawn to Applicants' specification page 39, lines 12-21, wherein Applicants recognize that based on actual experience of abnormal program terminations, the re-occurrence of abnormal termination after the re-activation can be fairly expected. Thus, Applicants' solution is to execute an alternative program in place of the application that is expected to abnormally terminate. An exemplary, non-limiting embodiment of this process is illustrated, for example, in Applicants' Figure 23, together with the corresponding description.

Thus, Applicants respectfully submit that the combination of features recited in independent claim 1 would not have been obvious to one of ordinary skill in the art at the time of the invention, in view of SARFATI and LILLEVOLD. Nevertheless, in order to expedite the prosecution of the present patent application to allowance, Applicants have amended independent claim 1 to further clarify that when the first program is abnormally terminated, the second program is subsequently selected and executed in place of the first program, and thereafter the first program that was abnormally terminated is prevented from further execution.

More specifically, amended independent claim 1 recites: *wherein upon selection and execution of the program selected by said second program selector, the program that experienced abnormal termination is prevented from further execution.*

For at least the reasons discussed above, Applicants respectfully submit that the specific combination of features recited in amended independent claim 1 would not have been obvious to one of ordinary skill in the art at the time of the invention, in view of SARFATI and

LILLEVOLD. Additionally, Applicants submit that related amended independent claims 16, 22-23, and 27-34 are also patentable for at reasons similar to the reasons discussed above regarding amended independent claim 1, since amended independent claims 16, 22-23, and 27-34 recite features similar to the features discussed above regarding amended independent claim 1. Furthermore, Applicants submit that dependent claims 2-11, 13-15, and 24-26, which depend from amended independent claim 1, and dependent claims 17-21, which depend from amended independent claim 16, are patentable for at least the reasons discussed above, and further for the additional features recited therein.

In conclusion, Applicants respectfully submit that claims 1-11 and 13-34 satisfy all of the regulatory and statutory requirements for patentability, for at least the reasons discussed above. Accordingly, Applicants respectfully request that the rejection of claims 1-11 and 13-34 under 35 U.S.C. § 103(a) as being unpatentable over SARFATI in view of LILLEVOLD be withdrawn, and that an indication of the allowability of claims 1-11 and 13-34 be provided in the next Official communication.

## SUMMARY

From the amendments and remarks provided above, Applicants respectfully submit that all of the pending claims in the present patent application are patentable over the references cited by the Examiner, either alone or in combination. Accordingly, reconsideration of the outstanding Final Official Action is respectfully requested, and an indication of allowance of claims 1-11 and 13-34 is now believed to be appropriate.

Applicants note that this amendment is being made to advance prosecution of the application to allowance, and should not be considered as surrendering equivalents of the territory between the claims prior to the present amendment and the amended claims. Further, no acquiescence as to the propriety of the Examiner's rejections is made by the present amendment. All other amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should there be any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

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